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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,344	03/17/2004	William L. Walburn	10938/004	3642

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INDIANAPOLIS OFFICE 27879
BRINKS HOFER GILSON & LIONE
ONE INDIANA SQUARE, SUITE 1600
INDIANAPOLIS, IN 46204-2033

EXAMINER	
GABLER, PHILIP FRANCIS	
ART UNIT	**PAPER NUMBER**
3637	

DATE MAILED: 07/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/802,344	WALBURN, WILLIAM L.	
	Examiner	Art Unit	
	Philip Gabler	3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 May 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14 and 16-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-14 and 16-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

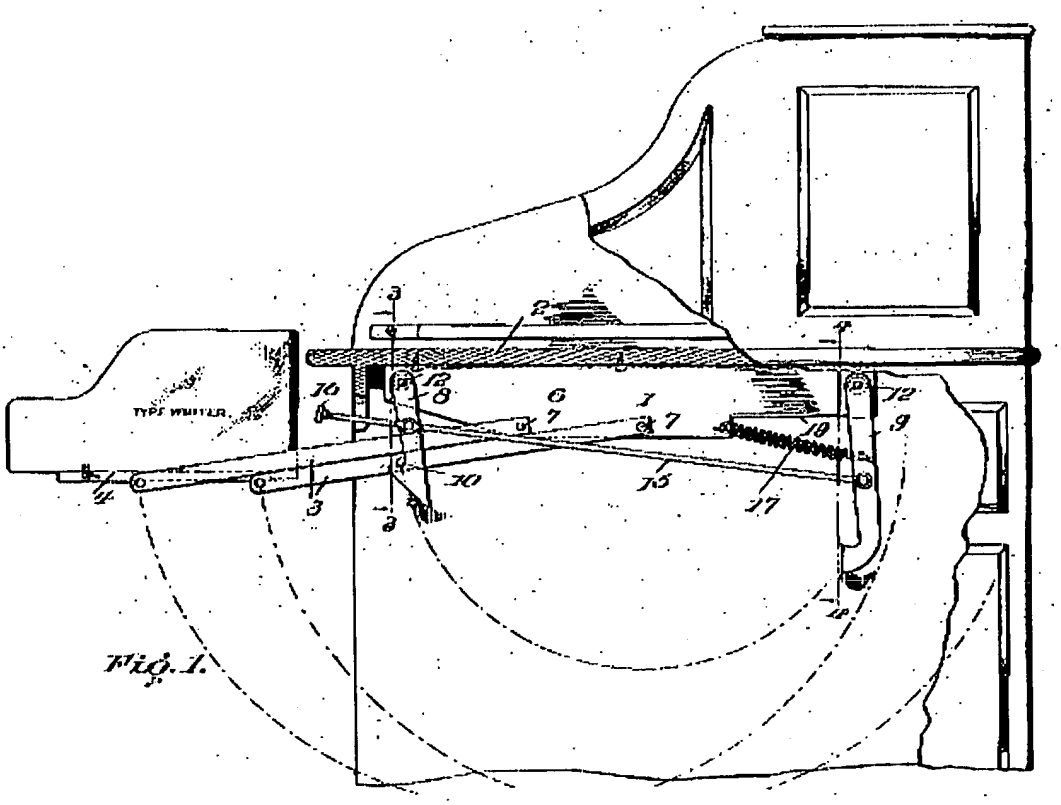
> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 8-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Fetch (US Patent Number 883305). Fetch (Figures 1 and 2) discloses a shelf lift system comprising: a support bracket (6), a first and second pivot (both labeled 7) coupled to the bracket, first and second bars (both labeled 3) respectively coupled to the first and second pivots for movement relative to the support bracket, a shelf support (4) coupled to the first and second bars for movement with the bars relative to the bracket between an upper and a lower position (see Figures 1 and 2), one of the first and second bars including a stop contact portion (10 and surrounding section of bar), and a cushion (9, which acts as a stop or rest for the stop contact portion) fixed to the support bracket at a position to intercept the bar stop contact portion when the shelf support moves to the lower position.

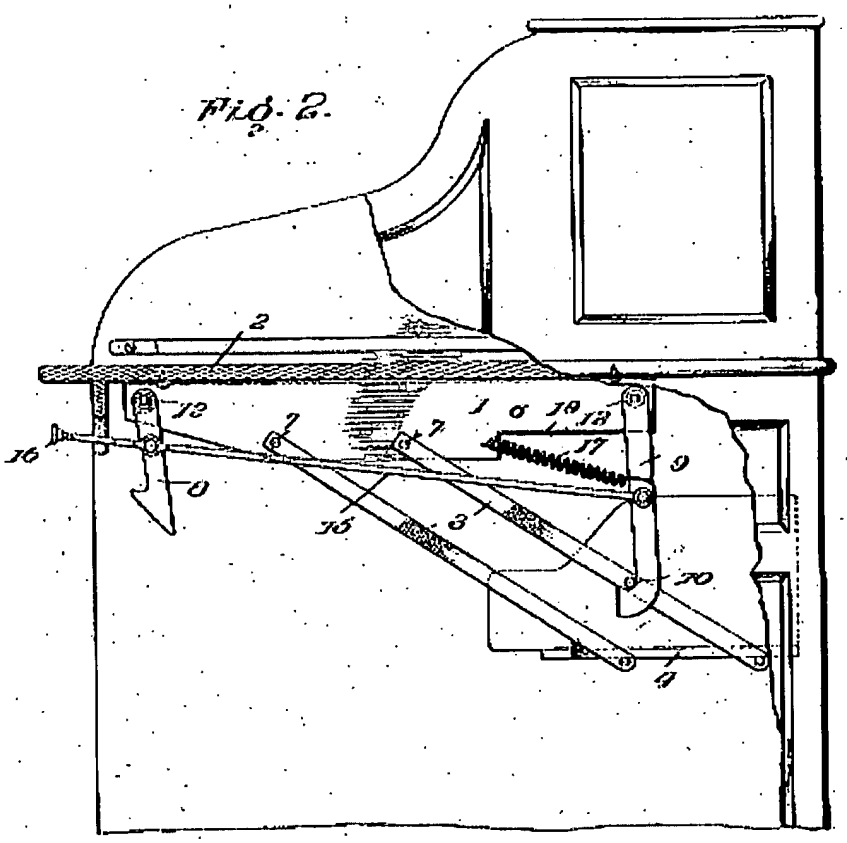
3. Regarding claim 8, Fetch further discloses a latch (8) coupled to the shelf support (indirectly, via the linkage) and a latch pin (10) coupled to one of the first and second bars at a position that permits engagement of the latch pin and latch when the shelf support is in the upper position (see Figure 1).

4. Regarding claim 9, Fetch further discloses a latch release lever (15) coupled to the latch to facilitate the release of the latch from the latch pin, and a latch biasing member (17) coupled to the latch (through members 9 and 15) to bias the latch toward engagement with the latch pin.

5. Regarding claim 10, Fetch further discloses lever mounting pins (attachment points of lever 15 to members 8 and 9) for movably mounting the latch release lever to the shelf support (indirectly, via the linkage), the lever including a handle (16) facilitating the movement of the latch release lever and latch relative to the shelf support.



Fetch '305 Figure 1



Fetch '305 Figure 2

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 1-6 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schreyer in view of in view of Foster (US Patent Number 4657214). Schreyer (Figures 2 and 3) discloses a shelf lift system comprising: a support bracket (14a), a first

(upper pivot of arm 24a) and second (29a) pivot coupled to the bracket, first (24a) and second (26a) bars respectively coupled to the first and second pivots for movement relative to the support bracket, a shelf support (23a) coupled to the first and second bars for movement with the bars relative to the bracket between an upper and a lower position (see Figures 2 and 3), one of the first and second bars including a stop contact portion (25a), and a slot (32a) formed on the support bracket at a position to intercept the bar stop contact portion when the shelf support moves to the lower position but does not disclose a cushion *fixed* to the support bracket. Foster (Figure 6) discloses a shelf system including a rubber (see for example column 5 lines 52-53) bumper (88) fixed to a stop or cushion (86). Accordingly, it would have been obvious to add a rubber bumper/cushion to the slot of Schreyer's system to provide a soft stop for the mechanism to reduce noise and prevent jarring of the contents of the shelf.

8. Regarding claim 2, Schreyer, as modified by Foster as described above, discloses the cushion is fixed between the first and second pivots.

9. Regarding claim 3, Schreyer further discloses the stop contact portion (25a) comprises an end portion of one of the bars (24a) extending from one of the first and second pivots away from the shelf support (23a).

10. Regarding claim 4, Schreyer, as modified by Foster as described above, discloses a biasing member (30) having a first end coupled to the support bracket (via rod 19) and a second end coupled to one of the first and second bars (via rod 28) applying a force there between, said cushion being generally situated along a line

between the first and second ends of the biasing member when the shelf support is in the upper position (see Figure 3).

11. Regarding claim 5, Schreyer, as modified by Foster as described above, discloses the first and second ends of the biasing member are situated in an over-center relationship with respect to at least one of the first and second pivots when the shelf support is moved to the lower position, so that the bar stop contact portion is biased into contact with the cushion (see Schreyer Figure 2 and column 3 lines 5-26).

12. Regarding claim 6, Schreyer further discloses a tension adjustment member (28) coupled to the biasing member for adjusting the force applied by the biasing member. [Translation of member 28 during rotation of member 26a will alter the length of biasing member 30 and accordingly adjust the force applied by the member.]

13. Regarding claim 18, Schreyer, as modified by Foster as described above, discloses the cushion is made of rubber, and it is well known in the art that common rubber compounds (natural rubber, silicone rubber, neoprene, etc.) have durometers that fall in the range of about 40 to 70 Shore A.

FIG. 2

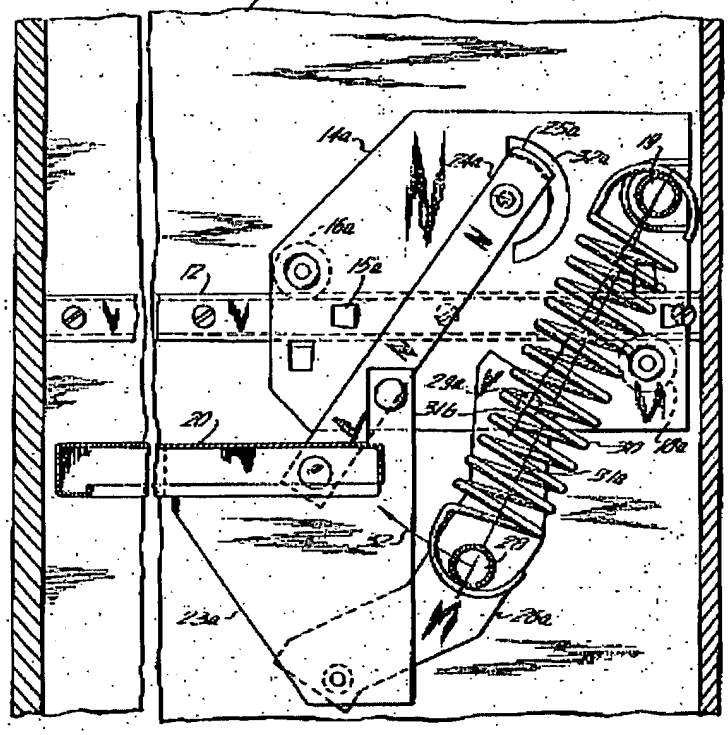
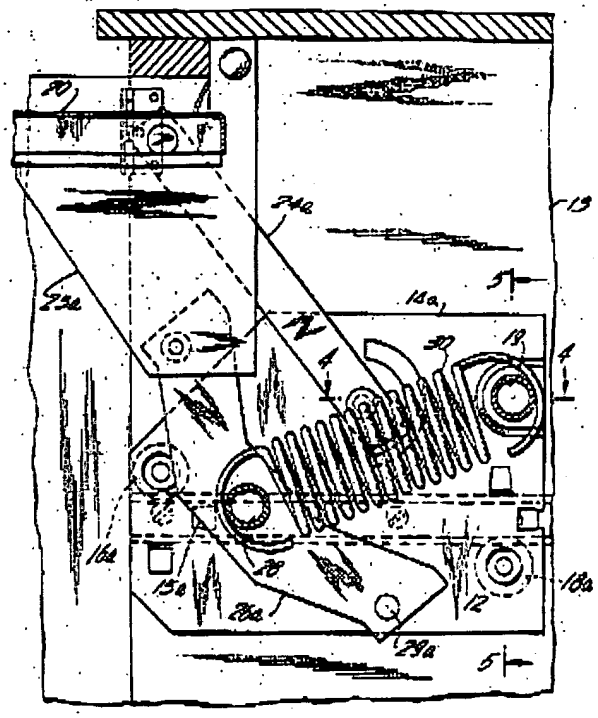


FIG. 3



Schreyer '761 Figures 2 and 3

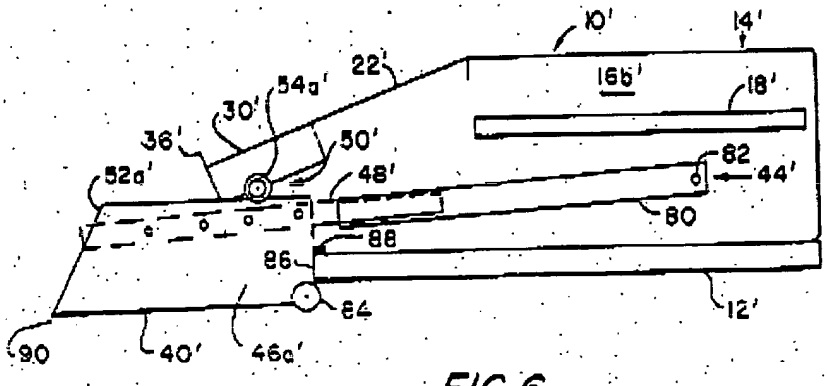


FIG. 6

Foster '214 Figure 6

14. Claims 7, 11, 16, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schreyer in view of Foster and further in view of Schneller (US Patent Number 3857623). Schreyer, when modified by Foster as described above, discloses a shelf lift system as recited in claim 6 but does not disclose a tension adjustment plate. Schneller (Figures 8 and 10) discloses a shelf lift system (Figure 8) including a tension adjustment plate (washer or flange labeled A in Exhibit 1, which is functionally equivalent to a tension adjustment plate) coupled to a biasing member (26) to permit changes in length of the biasing member (the assembly of Figure 10 replacing component 8 of Figure 8 – see column 3 lines 42-51). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Schreyer's lift system, previously modified by Foster, to include a tension adjustment plate as taught by Schneller because this arrangement would allow fine tuning of the lifting and lowering assistance provided by the system.

15. Regarding claim 11, Schreyer discloses a shelf lift system comprising: a support bracket (14a), a first (upper pivot of arm 24a) and second (29a) pivot coupled to the bracket, first (24a) and second (26a) bars respectively coupled to the first and second pivots for movement relative to the support bracket, a shelf support (23a) coupled to the first and second bars for movement with the bars relative to the bracket between an upper and a lower position (see Figures 2 and 3), a biasing member (30) having a first end coupled to the support bracket (via rod 19) and a second end, and a slot formed on the support bracket between the first and second pivots to intercept a stop contact portion (25a) of one of the bars when the shelf support moves to the lower position.

Schreyer does not disclose a cushion *fixed* to the support bracket or a tension adjustment plate. Foster (Figure 6) discloses a shelf system including a rubber (see for example column 5 lines 52-53) bumper (88) fixed to a stop or cushion (86). Accordingly, it would have been obvious to add a rubber bumper/cushion to the slot of Schreyer's system to provide a soft stop for the mechanism to reduce noise and prevent jarring of the contents of the shelf. Schneller (Figures 8 and 10) discloses a shelf lift system (Figure 8) including a tension adjustment plate (washer or flange labeled A in Exhibit 1, which is functionally equivalent to a tension adjustment plate) coupled to a biasing member (26) and pivotally coupled to a component (24) of a shelf lift system for movement relative to a support bracket (also 24) to provide adjustable biasing force, and a fastener (27) for securing the tension adjustment plate. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Schreyer's lift system to include a tension adjustment plate as taught by Schneller because this arrangement would allow fine tuning of the lifting and lowering assistance provided by the system.

16. Regarding claim 16, Schreyer further discloses the stop contact portion (25a) comprises an end portion of one of the bars (24a) extending from one of the first and second pivots away from the shelf support (23a).

17. Regarding claim 19, Schreyer, as modified by Foster and Schneller as described above, discloses the cushion is made of rubber, and it is well known in the art that common rubber compounds (natural rubber, silicone rubber, neoprene, etc.) have durometers that fall in the range of about 40 to 70 Shore A.

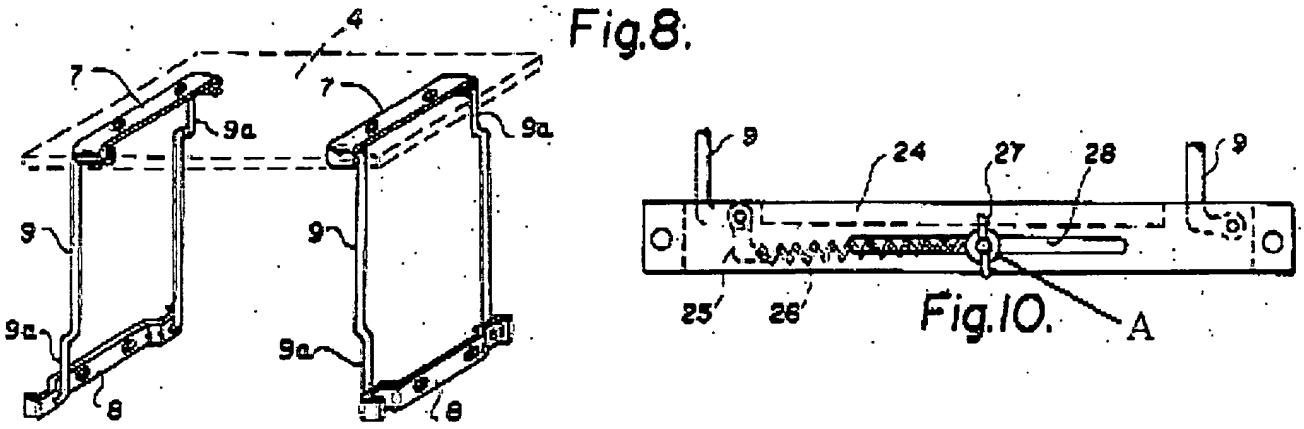


Exhibit 1: Schneller '623 Figures 8 and 10

18. Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schreyer in view of Foster and Schneller and further in view of Fetch. Schreyer, when modified by Foster and Schneller as described above, discloses a shelf lift system as recited in claim 11 but does not disclose a latch. Fetch discloses a shelf lift system including a latch (8) coupled to a shelf support and a latch pin (10) coupled to a bar at a position that permits engagement of the latch pin and latch when the shelf support is in an upper position. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Schreyer's lift system, previously modified by Foster and Schneller, to include a latch system as taught by Fetch because this would provide a simple way of further securing the shelf support in its upper position.

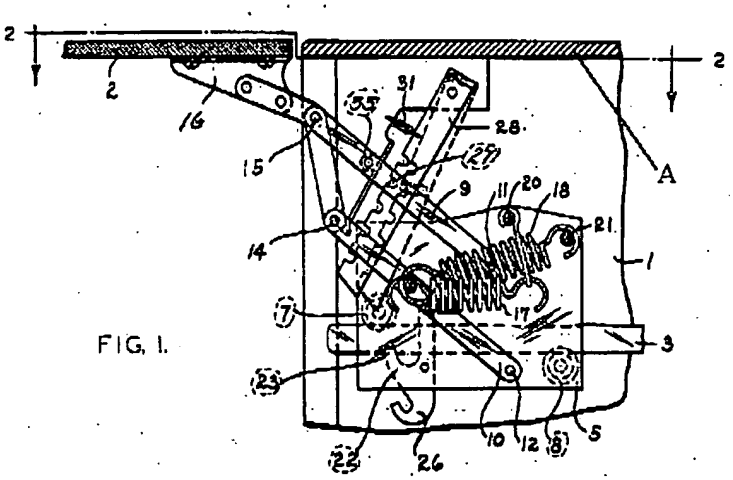
19. Regarding claim 13, Fetch further discloses a latch release lever (15) coupled to the latch to facilitate the release of the latch from the latch pin, and a latch biasing

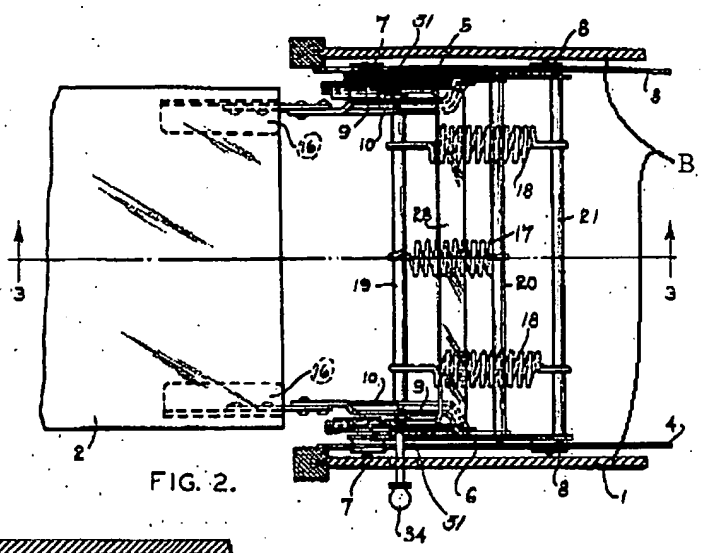
member (17) coupled to the latch (through members 9 and 15) to bias the latch toward engagement with the latch pin.

20. Regarding claim 14, Fetch further discloses lever mounting pins (attachment points of lever 15 to members 8 and 9) for movably mounting the latch release lever, the lever including a handle (16) facilitating the movement of the latch release lever and latch relative to a shelf support.

21. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Koch (US Patent Number 2541075) in view of Schneller. Koch (Figures 1-3) discloses a shelf lift system for use in a cabinet (1) having a top surface (viewed as A in Exhibit 2) and a pair of sidewalls (B) defining a space below the top surface, the shelf lift system comprising a pair of support brackets (5 and 6), each bracket having a mounting surface to be fixed to one of the sidewalls (via tracks 3 and 4), a first and second pivot (11 and 12) coupled to each bracket, a swingable linkage including first and second bars (9 and 10) respectively coupled to the first and second pivots of each bracket for movement relative to each support bracket, shelf supports (16) coupled to each of the first and second bars (via member 13) and supporting a common shelf (2) for movement of the shelf with the bars relative to the brackets between and upper position wherein a shelf (2) is situated generally coplanar with the cabinet top surface (see Figure 1) and a lower position wherein the shelf is situated fully within the cabinet below the top surface (see Figure 3), biasing members (18) having first ends coupled to one of the support brackets (via 21) and second ends, latches (28) coupled (indirectly) to the shelf supports and latch pins (27) coupled to one of the first and second bars at a position

permitting engagement of the latch pin and latch when the shelf is in the upper position (see Figure 1), a latch release lever (34) coupled to the latch to facilitate release of each latch from any engaged latch pin to allow the shelf to move to the lower position, and cushions (26, which act as a stops or rests for a stop contact portion) fixed to each support bracket at a position to intercept a stop contact portion (27 and surrounding section of bar) of one of the bars when the shelf support moves to the lower position. Koch does not disclose a tension adjustment plate. Schneller (Figures 8 and 10) discloses a shelf lift system (Figure 8) including a tension adjustment plate (washer or flange labeled A in Exhibit 1, which is functionally equivalent to a tension adjustment plate) coupled to an end of a biasing member (26) and pivotally coupled to a bar (9 through element 25), and a fastener (27) for securing the tension adjustment plate at a selected position to provide a biasing force to aid in movement of a shelf (4). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Koch's lift system to include a tension adjustment plate as taught by Schneller because this arrangement would allow fine tuning of the lifting and lowering assistance provided by the system.





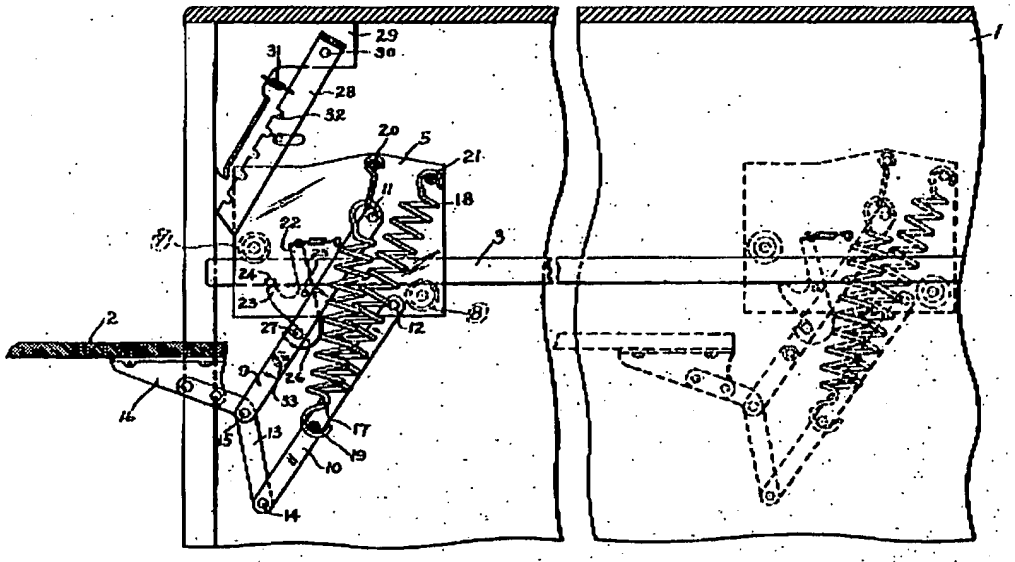


Exhibit 2: Koch '075 Figures 1-3

22. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Koch in view of Schneller and further in view of Foster (US Patent Number 4657214). Koch, when modified by Schneller as described above, discloses a shelf lift system as recited in claim 11 but does not disclose a cushion made of rubber. Foster (Figure 6) discloses a shelf system including a rubber (see for example column 5 lines 52-53) bumper (88)

added to a stop or cushion (86). Further, it is well known in the art that common rubber compounds (natural rubber, silicone rubber, neoprene, etc.) have durometers that fall in the range of about 40 to 70 Shore A. Accordingly, it would have been obvious to add a rubber bumper to the cushion of Koch's system, previously modified by Schneller, to provide a soft stop for the mechanism to reduce noise and prevent jarring of the contents of the shelf.

Response to Arguments

23. Applicant's arguments, see the first page of remarks, filed 12 May 2006, with respect to the objections to the disclosure and claims 1 and 17 have been fully considered and are persuasive. The objections to the disclosure and claims 1 and 17 have been withdrawn.

24. Others of Applicant's arguments filed 12 May 2006 have been fully considered but they are not persuasive. As explained in the above rejections, Schreyer, Fetch, and Koch each disclose a cushion (or its functional equivalent) in that each discloses a stop or rest for a pivoting bar. In this situation, the term cushion is viewed as simply that, a stop against which an element rests. It is further noted that metallic elements, being elastic, will provide a degree of shock absorption, albeit minimal. This absorption would only be increased by the biasing elements present in Fetch's and Koch's systems. However, it is acknowledged that Schreyer's stop is not *fixed* to his bracket, but rather an integral feature of the bracket. Accordingly, the previous 35 USC 102 rejections

based on the Schreyer reference have been withdrawn in favor of the 35 USC 103 rejections presented in this Office Action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Gabler whose telephone number is (571) 272-6038. The examiner can normally be reached on Monday through Friday, 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PFG
6/21/2006

JAMES O. HANSEN
PRIMARY EXAMINER